

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3074 and 2720**

**STATE OF NEW JERSEY
210th LEGISLATURE**

ADOPTED DECEMBER 9, 2002

Sponsored by:

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblyman ROBERT J. SMITH

District 4 (Camden and Gloucester)

Assemblyman GEORGE F. GEIST

District 4 (Camden and Gloucester)

Assemblyman JOSEPH AZZOLINA

District 13 (Middlesex and Monmouth)

Co-Sponsored by:

Assemblywoman Perez-Cinciarelli, Assemblymen Gusciora, Guear, Pennacchio, Arnone, Dancer, Eagler, Assemblywomen Greenstein, Heck, Assemblymen S.Kean, Munoz, Senators Sweeney, Vitale, Connors, Allen and Turner

SYNOPSIS

Increases criminal and civil penalties for certain animal cruelty offenses; and increases penalty for certain repeat offenders.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Agriculture and Natural Resources Committee.

(Sponsorship Updated As Of: 12/12/2003)

1 AN ACT concerning animal cruelty and amending various sections of
2 chapter 22 of Title 4 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. R.S.4:22-17 is amended to read as follows:

8 4:22-17. a. A person who shall:

9 (1) Overdrive, overload, drive when overloaded, overwork,
10 deprive of necessary sustenance, abuse, or needlessly kill a living
11 animal or creature;

12 (2) Cause or procure any such acts to be done; or

13 (3) Inflict unnecessary cruelty upon a living animal or creature, or
14 unnecessarily fail to provide a living animal or creature of which the
15 person has charge either as an owner or otherwise with proper food,
16 drink, shelter or protection from the weather, or leave it unattended in
17 a vehicle under inhumane conditions adverse to the health or welfare
18 of the living animal or creature--

19 Shall be guilty of a disorderly persons offense, and notwithstanding
20 the provisions of N.J.S.2C:43-3 to the contrary, for every such offense
21 shall be fined not less than \$250 nor more than \$1,000, or be
22 imprisoned for a term of not more than six months, or both, in the
23 discretion of the court. In addition, the court (1) shall impose a term
24 of community service of up to 30 days, and may direct that the term
25 of community service be served in providing assistance to the New
26 Jersey Society for the Prevention of Cruelty to Animals, a district
27 (county) society for the prevention of cruelty to animals, or any other
28 recognized organization concerned with the prevention of cruelty to
29 animals or the humane treatment and care of animals, or to a
30 municipality's animal control or animal population control program;
31 (2) may require the violator to pay restitution or otherwise reimburse
32 any costs for food, drink, shelter, or veterinary care or treatment, or
33 other costs, incurred by any agency, entity, or organization
34 investigating the violation, including but not limited to the New Jersey
35 Society for the Prevention of Cruelty to Animals, a district (county)
36 society for the prevention of cruelty to animals, any other recognized
37 organization concerned with the prevention of cruelty to animals or
38 the humane treatment and care of animals, or a local or State
39 governmental entity; and (3) may impose any other appropriate
40 penalties established for a disorderly persons offense pursuant to Title
41 2C of the New Jersey Statutes.

42 b. A person who shall purposely, knowingly, or recklessly:

43 (1) Torment, torture, maim, hang, poison, unnecessarily or cruelly

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 beat, or needlessly mutilate[, or cruelly kill] a living animal or
2 creature; or

3 (2) Cause or procure any such acts to be done--

4 Shall be guilty of a crime of the fourth degree.

5 If the animal or creature is cruelly killed or dies as a result of a
6 violation of this subsection, or the person has a prior conviction for a
7 violation of this subsection, the person shall be guilty of a crime of the
8 third degree.

9 [In] For a violation of this subsection, in addition to imposing any
10 other appropriate penalties established for a crime of the third degree
11 or a crime of the fourth degree , as the case may be, pursuant to Title
12 2C of the New Jersey Statutes, the court shall impose a term of
13 community service of up to 30 days, and may direct that the term of
14 community service be served in providing assistance to the New Jersey
15 Society for the Prevention of Cruelty to Animals, a district (county)
16 society for the prevention of cruelty to animals, or any other
17 recognized organization concerned with the prevention of cruelty to
18 animals or the humane treatment and care of animals, or to a
19 municipality's animal control or animal population control program.
20 The court also may require the violator to pay restitution or otherwise
21 reimburse any costs for food, drink, shelter, or veterinary care or
22 treatment, or other costs, incurred by any agency, entity, or
23 organization investigating the violation, including but not limited to
24 the New Jersey Society for the Prevention of Cruelty to Animals, a
25 district (county) society for the prevention of cruelty to animals, any
26 other recognized organization concerned with the prevention of
27 cruelty to animals or the humane treatment and care of animals, or to
28 a municipality's animal control or animal population control program.

29 c. If a juvenile is adjudicated delinquent for an act which, if
30 committed by an adult, would constitute a disorderly persons offense
31 pursuant to subsection a. of this section or a crime of the third degree
32 or crime of the fourth degree pursuant to subsection b. of this section,
33 the court also shall order the juvenile to receive mental health
34 counseling by a licensed psychologist or therapist named by the court
35 for a period of time to be prescribed by the licensed psychologist or
36 therapist.

37 (cf: P.L.2001, c.229, s.1)

38

39 2. R.S.4:22-23 is amended to read as follows:

40 4:22-23. A person who shall:

41 a. Use a live pigeon, fowl or other bird for the purpose of a target,
42 or to be shot at either for amusement or as a test of skill in
43 marksmanship;

44 b. Shoot at a bird used as [aforesaid] described in subsection a. of
45 this section, or is a party to such shooting; or

- 1 c. Lease a building, room, field or premises, or knowingly permit
- 2 the use thereof for the purpose of such shooting--
- 3 Shall be guilty of a disorderly persons offense, and shall, in addition
- 4 to any penalty assessed therefor, be fined \$25 for each bird shot at or
- 5 killed in violation of this section.
- 6 This section shall not apply to the shooting of game.
- 7 (cf: P.L.1995, c.355, s.6)
- 8
- 9 3. R.S.4:22-26 is amended to read as follows:
- 10 4:22-26. A person who shall:
- 11 a. (1) Overdrive, overload, drive when overloaded, overwork,
- 12 deprive of necessary sustenance, abuse, or needlessly kill [, torment,]
- 13 a living animal or creature, or cause or procure any such acts to be
- 14 done;
- 15 (2) Torment, torture, maim, hang, poison, unnecessarily or cruelly
- 16 beat, or needlessly mutilate [, or cruelly kill] a living animal or
- 17 creature, or cause or procure any such acts to be done;
- 18 (3) Cruelly kill, or cause or procure the cruel killing of, a living
- 19 animal or creature, or otherwise cause or procure the death of a living
- 20 animal or creature from commission of any act described in paragraph
- 21 (2) of this subsection ;
- 22 b. [Cause or procure any such acts enumerated in subsection a. of
- 23 this section to be done;] Deleted by amendment, P.L. , c. (now
- 24 before the Legislature as this bill)
- 25 c. Inflict unnecessary cruelty upon a living animal or creature, or
- 26 unnecessarily fail to provide a living animal or creature of which the
- 27 person has charge either as an owner or otherwise with proper food,
- 28 drink, shelter or protection from the weather, or leave it unattended in
- 29 a vehicle under inhumane conditions adverse to the health or welfare
- 30 of the living animal or creature;
- 31 d. Receive or offer for sale a horse that is suffering from abuse or
- 32 neglect, or which by reason of disability, disease, abuse or lameness,
- 33 or any other cause, could not be worked, ridden or otherwise used for
- 34 show, exhibition or recreational purposes, or kept as a domestic pet
- 35 without violating the provisions of this article;
- 36 e. Keep, use, be connected with or interested in the management
- 37 of, or receive money or other consideration for the admission of a
- 38 person to, a place kept or used for the purpose of fighting or baiting
- 39 a living animal or creature;
- 40 f. Be present and witness, pay admission to, encourage, aid or
- 41 assist in an activity enumerated in subsection e. of this section;
- 42 g. Permit or suffer a place owned or controlled by him to be used
- 43 as provided in subsection e. of this section;
- 44 h. Carry, or cause to be carried, a living animal or creature in or
- 45 upon a vehicle or otherwise, in a cruel or inhumane manner;

- 1 i. Use a dog or dogs for the purpose of drawing or helping to draw
- 2 a vehicle for business purposes;
- 3 j. Impound or confine or cause to be impounded or confined in a
- 4 pound or other place a living animal or creature, and shall fail to
- 5 supply it during such confinement with a sufficient quantity of good
- 6 and wholesome food and water;
- 7 k. Abandon a maimed, sick, infirm or disabled animal or creature
- 8 to die in a public place;
- 9 l. Willfully sell, or offer to sell, use, expose, or cause or permit to
- 10 be sold or offered for sale, used or exposed, a horse or other animal
- 11 having the disease known as glanders or farcy, or other contagious or
- 12 infectious disease dangerous to the health or life of human beings or
- 13 animals, or who shall, when any such disease is beyond recovery,
- 14 refuse, upon demand, to deprive the animal of life;
- 15 m. Own, operate, manage or conduct a roadside stand or market
- 16 for the sale of merchandise along a public street or highway; or a
- 17 shopping mall, or a part of the premises thereof; and keep a living
- 18 animal or creature confined, or allowed to roam in an area whether or
- 19 not the area is enclosed, on these premises as an exhibit; except that
- 20 this subsection shall not be applicable to: a pet shop licensed pursuant
- 21 to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who keeps an
- 22 animal, in a humane manner, for the purpose of the protection of the
- 23 premises; or a recognized breeders' association, a 4-H club, an
- 24 educational agricultural program, an equestrian team, a humane
- 25 society or other similar charitable or nonprofit organization conducting
- 26 an exhibition, show or performance;
- 27 n. Keep or exhibit a wild animal at a roadside stand or market
- 28 located along a public street or highway of this State; a gasoline
- 29 station; or a shopping mall, or a part of the premises thereof;
- 30 o. Sell, offer for sale, barter or give away or display live baby
- 31 chicks, ducklings or other fowl or rabbits, turtles or chameleons which
- 32 have been dyed or artificially colored or otherwise treated so as to
- 33 impart to them an artificial color;
- 34 p. Use any animal, reptile, or fowl for the purpose of soliciting any
- 35 alms, collections, contributions, subscriptions, donations, or payment
- 36 of money except in connection with exhibitions, shows or
- 37 performances conducted in a bona fide manner by recognized breeders'
- 38 associations, 4-H clubs or other similar bona fide organizations;
- 39 q. Sell or offer for sale, barter, or give away living rabbits, turtles,
- 40 baby chicks, ducklings or other fowl under two months of age, for use
- 41 as household or domestic pets;
- 42 r. Sell, offer for sale, barter or give away living baby chicks,
- 43 ducklings or other fowl, or rabbits, turtles or chameleons under two
- 44 months of age for any purpose not prohibited by subsection q. of this
- 45 section and who shall fail to provide proper facilities for the care of
- 46 such animals;
- 47 s. Artificially mark sheep or cattle, or cause them to be marked, by

1 cropping or cutting off both ears, cropping or cutting either ear more
2 than one inch from the tip end thereof, or half cropping or cutting both
3 ears or either ear more than one inch from the tip end thereof, or who
4 shall have or keep in [his] the person's possession sheep or cattle,
5 which [he] the person claims to own, marked contrary to this
6 subsection unless they were bought in market or of a stranger;

7 t. Abandon a domesticated animal;

8 u. For amusement or gain, cause, allow, or permit the fighting or
9 baiting of a living animal or creature;

10 v. Own, possess, keep, train, promote, purchase, or knowingly sell
11 a living animal or creature for the purpose of fighting or baiting that
12 animal or creature;

13 w. Gamble on the outcome of a fight involving a living animal or
14 creature;

15 x. Knowingly sell or barter or offer for sale or barter, at wholesale
16 or retail, the fur or hair of a domestic dog or cat or any product made
17 in whole or in part from the fur or hair of a domestic dog or cat, unless
18 such fur or hair for sale or barter is from a commercial grooming
19 establishment or a veterinary office or clinic or is for use for scientific
20 research;

21 y. Knowingly sell or barter or offer for sale or barter, at wholesale
22 or retail, for human consumption, the flesh of a domestic dog or cat or
23 any product made in whole or in part from the flesh of a domestic dog
24 or cat; [or]

25 z. Surgically debark or silence a dog in violation of section 1 or 2
26 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);

27 aa. Use a live pigeon, fowl or other bird for the purpose of a
28 target, or to be shot at either for amusement or as a test of skill in
29 marksmanship, except that this subsection and subsections bb. and cc.
30 shall not apply to the shooting of game;

31 bb. Shoot at a bird used as described in subsection aa. of this
32 section, or is a party to such shooting; or

33 cc. Lease a building, room, field or premises, or knowingly permit
34 the use thereof for the purposes of subsections aa. or bb. of this
35 section --

36 Shall forfeit and pay a sum [not to exceed \$250, except in the case
37 of a violation of subsection t. a mandatory sum of \$500, and \$1,000
38 if the violation occurs on or near a roadway, and in the case of a
39 violation of subsection x. or y. a sum not to exceed \$1,000 for each
40 domestic dog or cat fur or fur or hair product or domestic dog or cat
41 carcass or meat product] according to the following schedule , to be
42 sued for and recovered, with costs, in a civil action by any person in
43 the name of the New Jersey Society for the Prevention of Cruelty to
44 Animals [.]

45 For a violation of subsections e., f., g., u., v., w., or z. of this
46 section or of paragraph (3) of subsection a. of this section, or for a
47 second or subsequent violation of paragraph (2) of subsection a. of

1 this section, a sum of up to \$5,000;

2 For a violation of subsection l. of this section or for a first violation
3 of paragraph (2) of subsection a. of this section, a sum of up to
4 \$3,000;

5 For a violation of subsections x. or y. of this section, a sum of up
6 to \$1,000 for each domestic dog or cat fur or fur or hair product or
7 domestic dog or cat carcass or meat product;

8 For a violation of subsection t. of this section, a sum of not less
9 than \$500 nor more than \$1,000, but if the violation occurs on or near
10 a highway, a mandatory sum of \$1,000;

11 For a violation of subsections c., d., h., j., k., aa., bb., or cc. of this
12 section or of paragraph (1) of subsection a. of this section, a sum of
13 up to \$1,000; and

14 For a violation of subsections i., m., n., o., p., q., r., or s. of this
15 section, a sum of up to \$500.

16 (cf: P.L.2002, c.102, s.8)

17

18 4. R.S.4:22-28 is amended to read as follows:

19 4:22-28. The indictment of a person under the provisions of this
20 article, or the holding of a person to bail to await the action of a grand
21 jury or court, shall not in any way relieve [him from his] that person
22 from liability to be sued for the [penalty in paragraphs "e," "f," "g,"
23 "u," "v," or "w" of section 4:22-26 of this Title] appropriate penalties
24 under R.S.4:22-26 .

25 (cf: P.L.1989, c.35, s.3)

26

27 5. R.S.4:22-29 is amended to read as follows:

28 4:22-29. The action for the penalty prescribed in R.S.4:22-26 [or
29 R.S.4:22-27,] shall be brought:

30 a. In the Superior Court; or

31 b. In a municipal court of the municipality wherein the defendant
32 resides or where the offense was committed.

33 (cf: P.L.1991, c.91, s.176)

34

35 6. R.S.4:22-32 is amended to read as follows:

36 4:22-32. Penalties for violations of [sections 4:22-26 and 4:22-27
37 of this Title] R.S.4:22-26 shall be enforced and collected in a summary
38 manner under ["the penalty enforcement law" (2A:58-1 et seq.)] the
39 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
40 seq.). A warrant may issue when the defendant is temporarily within
41 the jurisdiction of the court, but not residing therein; or when the
42 defendant is likely to evade judgment by

1 removal therefrom; or when [his] the defendant's name or residence
2 is unknown.

3 (cf: P.L.1953, c.5, s.69)

4

5 7. This act shall take effect immediately.